

**Family Court Judges' Meeting**  
**March 7, 2005**  
**Minutes**

**Judges Present:** Nan Nash, Angela Jewell, Ernesto Romero, and Deborah Walker

**Hearing Officers Present:** David Baca, Rosemary Cosgrove-Aguilar, Kaydee Culberston, Alisa Hadfield, James Loughren, and Reed Sheppard

The meeting was called to order at 12:13 p.m. by Presiding Family Court Judge Nan Nash.

**A. Rule Changes**

**1. Changes to Rule 53.1 and 53.2**

Judge Nash stated there is no progress to report.

**2. Proposed Disclosure Rule 1-123**

Judge Nash stated that the Proposed Disclosure Rule 1-123 is being reviewed by the Civil Rules Committee.

**3. Service of Process Rule Change**

Judge Nash stated that **Rule 1.004** regarding service of process has had significant changes. As of March 1, 2005 the only methods that will be acceptable for service are commercial courier with return receipt, service at place of employment, service at an individual's home with signature of a person 15 years of age or older, and service by publication. Posting and mailing service will no longer be accepted. When serving by publication an affidavit needs to be submitted with the Request because the Court needs to approve ahead of time. Katie Terry asked when mailing, who is responsible for mailing the return of service. Judge Nash responded that the attorney is responsible. Judge Nash stated that the Pro se Division is working on forms and instructions to inform pro se litigants about the Rule change. Judge Nash asked that everyone please have patience while the Domestic Relations Division adapts to the Rule change.

**Information (not on Agenda)**

Judge Nash introduced Robert Lewis who is one of the newest additions to the Court Clinic. Mr. Lewis stated that he attended a conference in early February and came across a software kit to create parenting plans. Mr. Lewis liked the program and believed that attorneys might find it useful. Mr. Lewis stated that the cost was about \$10.00 per month to maintain the software. Judge Nash stated that the 2<sup>nd</sup> Judicial District Family Court does not endorse this product. Mr. Lewis gave the contact number for the company 1-866-755-9991 and a web address of [www.familywizard.com](http://www.familywizard.com)

## **B. Legislation**

### **1. GAL Statute**

Judge Ernesto Romero deferred to Kim Schavey to update the Judges on the status of the **GAL Statute** (SB 203) that is pending before the legislation now. Ms. Schavey stated that SB 203 was heard by the Senate Judiciary Committee and some members of the public voiced their concerns about it. Senate Judiciary requested that the two sides attempt to compromise and then bring it back to the Committee. The resulting compromise bill passed out of Committee and then passed the full Senate with a 27 to 3 vote. The Bill is pending before House Judiciary. If it passes it will go to the House floor. Ms. Schavey stated that the odds of the Bill getting that to the floor were not very good. Ms. Schavey stated part of the confusion regarding the Bill is what people are looking for from a GAL. Ms. Schavey acknowledged the AOC has concerns about the Bill. She expressed a need for a forum where all sides could work on the GAL issue.

### **2. Mediator Confidentiality**

Judge Nash stated the pending legislation regarding mediator confidentiality (SB 656) has resulted from 10 years of work by the ADR community to try and provide some sort of confidentiality to the process of mediation. Proposed amendments to SB 656 would significantly alter the proposal drafted by the ADR Committee. Judge Nash stated the ADR community feels very strongly about the process of mediation being confidential. Confidentiality would protect mediators from being subpoenaed to testify about the mediations they conduct.

### **3. Domestic Violence Legislation (originally # 2 on Agenda)**

Judge Nash stated there are no real changes in the status of the proposed Domestic Violence legislation. Judge Jewell stated a Bill is pending about changing the presumption of joint custody in cases where there is proof of domestic violence.

### **4. Alimony Guidelines**

Judge Deborah Davis Walker stated that she is on the statewide Alimony Guidelines Committee. The Committee began as a pilot project in Bernalillo county. The pilot project has expanded to include the 1<sup>st</sup>, 3<sup>rd</sup>, and 8<sup>th</sup> District Courts. The Committee is surveying the use of the proposed alimony guidelines for settlement purposes. The Committee mailed out 250 questionnaires and received about 79 completed forms back. The information that they gathered from these forms suggests that lawyers favor using the guidelines by a 3 to 1 ratio. Judge Walker stated that if Judges have a case that involves alimony, one of the attorneys should be asked to fill out a survey at the completion of the case and send it to the Committee. Judge Walker stated that the information gathered from these surveys is important data. The guidelines are for use only for settlement purposes and Judge Walker does not foresee any legislation, policy or local rule being passed requiring their use in other ways. These guidelines do not take into account the duration of the marriage, only the financial status at the time of dissolution. Judge Nash asked the attorneys in attendance to please not address the alimony guidelines at trial as they are used for settlement purposes only.

**C. Family Court Retreat**

Judge Nash reminded all in attendance of the Family Court Judge/Hearing Officer retreat on March 15, 2005. Judge Nash stated that all comments and questions for consideration at the retreat need to be submitted to David Levin by Friday, March 11, 2005.

**D. New Issues**

- **Domestic Relation Task Force**

Judge Nash stated that the Domestic Relations task force that was created by Supreme Court Justice Maes and headed up by retired Judge Anne Kass has been dormant, but will begin to meet again in April of this year. Judge Nash stated that Chief Justice Bosson sees this task force as the place for policy questions to be answered. Judge Nash stated that in the past the DR Task Force proposed changes to **Rule 1.123** on disclosure. The issue of disqualifying hearing officers may be addressed.

- **Court Clinic Update**

Judge Nash stated Dr. Beth Roth has been named the acting director of Court Clinic now that Dr. Lou Kodi has retired. Judge Nash stated that they are readvertising the Director's position and they should have the position filled before the end of the fiscal year. Dr. Roth stated that she has a very experienced staff and they will do their best to keep up with the workload. Dr. Roth stated that as of right now they are 6 weeks out for mediation and 2 to 3 months out for Advisory Consultations. Dr. Roth stated that the Court Clinic staff are having a mural of Disney characters painted in the observation room in the Clinic in honor of Dr. Kodi.

- **New Request for Hearing Forms from Judge Romero**

Judge Romero stated that he is working on getting the Pro Se Division a copy of the new Request for Hearing form he is using. Judge Nash stated that she, Judge Walker, and Judge Jewell are still accepting the old form. Judge Romero stated that attorneys and pro se litigants are directed to submit the form with the requested time by both sides and that a witness list should be attached if an evidentiary hearing is being requested. Judge Romero stated that each side should list there how much time it will take to present their side of the case, not the total time. There was also discussion about how the form does not have the second page where the parties list their contact information and therefore were not being accepted by the clerks for filing. Judge Nash stated that the second page should be added so we can insure notice of the hearing gets to both parties. Linda Ellison reported that the DM Clerk's office has, on occasion, refused the Form required by Judge Romero. Judge Nash stated she and Georgia would talk to the clerks about not accepting these documents. Judge Romero stated that if the new form is not accepted by the clerk's office, the person filing should ask to speak with his TCAA and she can help them.

**E. Presentation**

**1. Law Access New Mexico - Carol Gardner**

Judge Nash introduced Carol Garner who gave a presentation on Law Access New Mexico. Law Access New Mexico provides legal advice telephonically to low income clients. The program has been in existence since January 2003. Ms. Gardner stated the process begins by someone calling in for legal advice. During that first phone call they are screened for income

guidelines, which are about 200% above the poverty level. After they are certified to have met the income guidelines, they are screened to see whether the opposing party was advised by Law Access. In the cases where the other party to the suit has been helped by Law Access, they cannot provide advice. Judge Walker asked if they form an attorney client relationship and Ms. Gardner answered yes, they do. Ms. Gardner stated they will sometimes assist with preparing pleadings and that they do not use the fill in the blank forms because of the possibility of errors when the client is filling out the paperwork. However even when they prepare pleadings, the client is still a Pro se litigant. Any pleading prepared by Law Access contains a disclosure. Because they do not ever want to set their clients up for failure, they also screen out extremely complicated cases and cases where the client does not have the mental capacity to represent themselves in Court. In those cases they try to find the person some sort of help through another organization.

- **Collaborative Divorce Training**

Gretchen Walther stated that the Collaborative Divorce training is scheduled for May 6<sup>th</sup> and 7<sup>th</sup> at the Convention Center. She stated that there will be CLE available for lawyers and they are checking into CE for the mental health professionals as well. She stated that only about 2 % of people know what collaborative law is, but of those 2%, 50% of them use it. She stated that collaborative law is a quick growing field. For more information contact [www.nmcollaborativedivorce.com](http://www.nmcollaborativedivorce.com).

- **Domestic Relations use of the Community Custody Program**

Judge Jewell stated that the Family Court can now order or remand people to the Community Custody Program (CCP) through the Metropolitan Detention Center. Judge Jewell stated this program is an extension of the jail and replaces the old work release program that they used to have. The purpose is to provide alternatives to incarceration in which the inmate is returned to his or her home, job, and neighborhood with intensive supervision. The program provides community based supervision and treatment reporting for court authorized clients who meet eligibility criteria. The program provides Judges the opportunity to allow inmates to prove themselves in the community. Inmates are placed back into the community and are monitored on a daily basis by Community Custody Officers. The program is designed so that the inmate can work and perform community service while being restricted to behavioral parameters and curfew times. Inmates who violate the program are returned to secure custody and are required to work in various areas of the Jail and/or Community. The costs associated with CCP are far less than traditional incarceration or jail.

**F. Calendar Reminders**

**Regular Meetings**

Family Court Staff Meeting: 1<sup>st</sup> Monday of the month at 11:00 a.m.

Family Court Judges' Meeting: 1<sup>st</sup> Monday of the month at 12:00 p.m.

Next Meeting: April 4, 2005

Judge/Hearing Officer Retreat - March 15, 2005

Collaborative Divorce Training - May 6-7, 2005

Respectfully submitted by  
Carla M. Ponce

**FAMILY COURT JUDGES' MEETING AGENDA**  
**APRIL 4, 2005 AT 12:00 NOON**  
**CONFERENCE CENTER, 3<sup>RD</sup> FLOOR**

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Welcome Spring!

A. **Rule Changes**

1. Changes to Rule 53.1 and 53.2 - No Change
2. Proposed Disclosure Rule 1-123 - No Change

B. **Legislation**

1. GAL Statute
2. Domestic Violence Legislation
3. Mediator Confidentiality
4. Other Legislation

C. **Old Business**

1. Family Court Retreat - Rescheduled April 26, 2005

D. **New Issues**

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1. Court Alternatives Staffing
  2. CASA Milagro Program - Makita Dougherty
  3. Filing Fee - Linda Ellison
  4. Stenographic Records
  5. Next meeting - May 2, 2005 or May 9, 2005 (Law Day)

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Family Court Judges' Meeting: 1<sup>st</sup> Monday of the month 12:00 p.m.  
Collaborative Divorce Training - May 6 & 7, 2005  
Family Court Retreat - April 26, 2005  
Judicial Conclave - June 15 - 17, 2005  
Settlement Week 2005 - October 17 - 21, 2005

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**Next meeting:** May 2, 2005